

IN THE UNITED STATES PATENT
AND TRADEMARK OFFICE

In re Patent Application of
MARK JAMES BECKMAN

Serial No.: 10/728,447

ART UNIT 3654
Docket PA1.677
I hereby certify that this
correspondence is being
FILED with the United
States PATENT AND
TRADEMARK OFFICE
Filed 20/9/2008
BY ELECTRONIC MEANS

For: PROCESS FOR ASSEMBLY
AND INSTALLATION OF A SNACK
PACKAGE ADAPTED FOR ATTACHMENT
TO A BEVERAGE CONTAINER
THEREBY ALLOWING THE
COMBINATION TO TAKE UP THE
SAME SHELF SPACE AS THE
CONTAINER ALONE FOR VENDING
AND OFF-THE SHELF
SALES WITH AUGMENTED
MARKETING ADAPTATION

/John E. Halamka/
John E. Halamka
Dated: 20 September 2008
Palos Verdes Estates, CA

Examiner: Rakesh Kumar

RESPONSE TO OFFICE ACTION concerning this application
mailed 03/21/2008 MADE FINAL.

Honorable Commissioner of Patents and Trademarks
Washington, D. C. 20231

INITIALLY APPLICANT'S ATTORNEY WOULD LIKE TO THANK THE
EXAMINER FOR HIS DETAILED ANALYSIS AND "HELPFUL HINTS".

BEFORE APPLICANT'S ATTORNEY'S USUAL DIATRIBE AND
SOMETIMES RAMBLING/REPETITIVE RESPONSE;

Applicant's Attorney wishes to bring to the attention of the
Examiner applicant's co-pending patent application for the product used
in this application for a process of using the product. The product is the
subject of Patent application serial No. 11/044,811 which is a CIP of

BECKAMAN on Kaufman 9-18-08

The examiner has cited Kaufman, pa no – as prior art.

Upon close reading of Kaufman, applicant's attorney applauds Kaufman for hitting the jackpot. Kaufman managed to obtain a single patent that covers:

1. A product
2. A process
3. An apparatus and
4. A gambling machine.

In my many years of practice, applicant's attorney has never been so lucky. The examiners I have been assigned have usually required a divisional or an election of species for such an application so that a multiple application process with multiple fees and multiple responses had to be pursued. I really tip my hat to Kaufman and his attorney.

Applicant's attorney continues to respectfully traverse examiner's opinion that Kaufman is proper prior art to the Beckman/Perez patent application. Kaufman may show the state of the art that is vastly improved by the solution to a desired problem shown in Kaufman – how to use a vending machine in such a manner as to increase the marketing and attraction of the vending machine. Most vending machines just stand there waiting to be found. This machine is shown to have attractive advertizing promoting gambling.

As shown above, the claims of the patent do not guarantee that upon deposit of the required sum of money to dispense something from the machine that the item dispensed will be a promotional item. The claims require the machine to be loaded with the product and "at least one promotional item". There is no requirement that the machine be loaded with a one to one corresponding product and promotional item in any of the claims.

Looking closely first at the promotional item and then at the product:

PROMOTIONAL ITEM

The inventor uses a beverage container for the packaging of the promotional item. The beverage container is split vertically in one embodiment and horizontally in another embodiment. If there were any beverage in the beverage container the beverage containing component of the beverage container is completely compromised. If splitting the container did not compromise the beverage containing ability of the beverage container the inventor teaches stuffing the beverage container with the tee shirt that is first compacted into the beverage container shape but smaller than the beverage container into which it is to be stuffed. This leaves no room for beverage or snack in the container. The split container is then taped closed with the label, with tape or with shrink wrap so that the tee shirt does not fall out of the split container. The now filled promotional container is mounted into one slot of the vending machine; again without requirement that there be a one to one correspondence for mounting one promotional item each time a product is mounted into the vending machine.

The product is packaged in a container similar to the beverage container chosen to enclose the promotional item. In this manner, the vending machine may be maintained with product and promotional item.